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District of Arizona
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6 Attorneys for Plaintiff

7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 United States of America,
11 Plaintiff,
12 vs.
13 Benjamin Pena,
14 Defendant.

CR-17-50185-PHX-SPL

**GOVERNMENT'S RESPONSE TO
DEFENDANT'S SECOND MOTION
FOR EARLY TERMINATION OF
SUPERVISED RELEASE**

15 The government objects to the defendant's second request for early termination due
16 to the sizable amount of restitution still owed. According to the probation officer, the
17 defendant is paying \$70 each month towards his restitution with an outstanding balance of
18 \$1,074,182.31. He has paid approximately \$11,000 since his last request. The original
19 amount of restitution was \$1,280,000.00.

20 Pena was convicted by a jury of Count One of Indictment No. 09-00585, charging
21 conspiracy to submit false claims, in violation of 18 U.S.C. §§ 371 and 287, and contrary
22 to the provisions of 18 U.S.C. § 371; Counts Two and Three, submission of false claims in
23 violation of 18 U.S.C. § 287; and Counts Five and Six, charging mail fraud in violation of
24 18 U.S.C. § 134.

25 The defendant was involved in a nationwide complex scheme to defraud the Federal
26 Communications Commission. He and many others participated in running up the number
27 of minutes in a telephone system use by deaf or hard of hearing individuals to make
28 telephone calls. The defendant would submit the "minutes" of phone calls which were

1 actually accumulated by his employees at his direction, to the Federal government for
2 fraudulent reimbursement.

3 It is the opinion of the probation officer that due to the extremely large amount of
4 restitution owing that he finish serving the remaining term of 9 months. The defendant has
5 been on the low-intensity caseload since last year and it has not interfered with his
6 employment. The government will defer to the opinion of the probation department and
7 ask the Court to deny the early termination request.

8 Respectfully submitted this 12th day of February 2019.

9 ELIZABETH A. STRANGE
10 First Assistant United States Attorney
District of Arizona

11 s/Vincent Q. Kirby
12 VINCENT Q. KIRBY
13 Assistant U.S. Attorney

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on this 12th day of February 2018, I electronically transmitted
16 the attached document to the Clerk's Office using the CM/ECF system for filing and
17 transmittal of a copy mailed to Benjamin Pena.

18
19 Copy mailed this same date to:

20 Benjamin Pena
21 15757 North 90th place
22 Apt. # 2071
Scottsdale AZ 85260

23 s/Heidi Kinwald
24 U.S. Attorney's Office
25
26
27
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